

ORAL TESTIMONY OF
DEPUTY UNDER SECRETARY OF DEFENSE
(INDUSTRIAL POLICY)
ON THE
REAUTHORIZATION OF THE DEFENSE PRODUCTION ACT
BEFORE THE
U.S. SENATE COMMITTEE ON BANKING, HOUSING, AND URBAN
AFFAIRS
June 5, 2003

Good morning, Mr. Chairman and members of the committee. I appreciate the opportunity to share with you Department of Defense (DoD) views regarding the Defense Production Act (DPA). As Dr. Segal indicated, this act provides statutory authorities that are vital for DoD, both in time of contingency or conflict as well as during peace. It helps obtain the goods and services we need to promote the national defense.

With your permission, I would like to summarize the testimony I have submitted for the record. Dr. Segal talked about Title III. My testimony today focuses on Title I of the Defense Production Act, and I want to briefly mention Title VII of the Act which also is very important to the Department of Defense. As you know, Defense Production Act Titles 2, 4, 5, and 6 have been repealed. I particularly want to describe for you why Title I authority is important and how we are using it today.

Title I, which addresses priorities and allocations, provides the President the authority to require preferential performance on contracts and orders as necessary or appropriate to promote the national defense. These authorities are important in peacetime, and vital in the event of conflict. These authorities are implemented through the Defense Priorities and Allocations System (DPAS) and applied via contract clauses. The clauses are like insurance, present in all defense system contracts, subcontracts, and orders, but actually executed only when absolutely necessary.

During peacetime, Title I authorities are important in setting priorities among defense programs that are competing for scarce resources and

industrial production of parts and subassemblies. Delayed industrial supplies increase costs of weapons systems and affect our readiness. DPAS serves as an important tool to prioritize and accelerate deliveries and minimize cost and schedule delays for the Department's orders.

During times of conflict, DPAS is vital, indeed indispensable. DPAS gives the Department of Defense the necessary power and flexibility to quicken deliveries in order to address critical warfighter needs effectively and expeditiously. The role of DPAS to increase interoperability and assist allies is also very important.

I would like to mention three specific cases that illustrate the absolutely necessary power that DPAS provides:

Predator UAVs armed with Hellfire missiles were used for the first time in Afghanistan. They included an upgraded sensor package, the Multi-Spectral Targeting System. The contractor's original delivery date for three systems was March 2003. Using DPAS, we jumped this order to the head of the production queue and the contractor was able to deliver three systems in December 2001, 18 months earlier than originally promised.

Since that time, we've used DPAS to accelerate 40 additional Multi-Spectral Targeting Systems. We all are aware of the dramatic impact unmanned Predators had in waging war in Afghanistan, and most recently in Iraq.

During Operations Enduring Freedom and Iraqi Freedom, a new lighter kind of body armor proved remarkably effective in minimizing fatal battlefield injuries. That latest generation Army and Marine body armor is comprised of protective vests with inserts made of an extremely tough fiber – Spectra – bonded to a ceramic plate. We used DPAS authority to direct the Spectra manufacturer's production to the highest priority Army and Marine requirements in order to maximize small arms protection for the warfighters.

For Operation Iraqi Freedom, the U.K. MoD needed Precision Lightweight Global Positioning Systems GPS Receivers. The U.K. requirements were critical to the warfighting effort. We used DPAS to give the U.K. order an industrial priority rating and it was moved ahead of some lesser priority U.S. orders not needed for deployed or deploying forces.

The U.K. received the equipment in a timely manner to support their forces in theater.

I'd like to conclude my remarks on Title I of the DPA by noting that our warfighters are the real DPAS beneficiaries. Limiting our authority to apply these provisions has the potential to put their lives at risk.

Turning now to Title VII, I want to briefly express support for these authorities, also very important to the Department of Defense. Title VII contains miscellaneous provisions, including enforcement mechanisms, which help protect the nation's security. For example, section 707 provides that no person shall be held liable for damages or penalties for any act resulting from compliance with rules, regulations, or orders issued under the Defense Production Act. This provision is necessary to protect suppliers from breach of contract claims when commercial contracts are displaced in the interest of national security. This provision should be permanently authorized in order to protect contractors during periods when the Defense Production Act has lapsed (as has happened temporarily).

Section 721 represents another example of important Title VII authorities. Section 721 allows the President to suspend or prohibit a foreign acquisition of a U.S. firm when that transaction would present a credible threat to the national security of the U.S. and remedies to eliminate that threat are not available under other statutes. This authority is increasingly important in today's globalized industrial environment.

In closing, I'd like to reaffirm that DPA authorities are a critical tool in the Department of Defense's arsenal. Time and again, particularly during times of conflict, we use Defense Production Act authorities to promote our nation's security. Given the challenges in the current uncertain environment, we urge you remove the uncertainty associated with short duration authorizations and reauthorize the Act through September 30, 2008. It would be very difficult for the Department of Defense to meet its national security responsibilities without the tools provided by the Defense Production Act.